

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD T. BERGO, et al.,

No. C 05-05425 CRB

Plaintiffs,

**ORDER**

v.

NEWCON CONCRETE CONSTRUCTION,  
INC., and MICHAEL HANSEN,

Defendants.

Now pending before the Court is the motion to dismiss of defendant Michael Hansen. After carefully considering the papers filed by the parties, the Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and GRANTS the motion to dismiss with leave to amend.

The complaint does not state an ERISA claim against Michael Hansen, an individual. The complaint does not allege, and apparently cannot allege, that Hansen is a signatory to the governing collective bargaining agreement.

Plaintiffs' conclusory allegation that Michael Hansen and defendant Newcon Concrete Construction, Inc. are a "single employer" is insufficient as the case cited by plaintiffs, UA Local 343 v. Nor-Cal Plumbing, Inc., 48 F.3d 1464, 1470-71 (9th Cir. 1994), does not apply to the facts alleged in this action. Accordingly, the complaint is DISMISSED with 20

1 days leave to file an amended complaint that states a claim against Hansen individually.

2 **IT IS SO ORDERED.**

3 Dated: March 17, 2006



4 CHARLES R. BREYER  
5 UNITED STATES DISTRICT JUDGE  
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United States District Court

For the Northern District of California